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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,159	12/02/2000	Brian Shuster	04633P005x2	3674

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EXAMINER

NGUYEN, ALAN V

ART UNIT PAPER NUMBER

2662

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/728,159

Applicant(s)

SHUSTER ET AL.

Examiner

Alan Nguyen

Art Unit

2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikinis (US 6,553,410) in view of Theimer (US 6,519,241).

Regarding **claim 1** Kikinis discloses a method for remotely controlling an animatronic device using a web enabled phone comprising the step of:

operating a first server (**figure 1 discloses a handheld computer connected to a proxy server 19**) to communicate with a web enabled phone, said first server operating to convert signals received from said web enabled phone to animatronic control signals (**functions to control a mechanical doll; see figure 9 and col 17 lines 1-37**) and sending said animatronic control signals to a second server for sending to a computer (**host 251; the host is coupled to the second server and the mechanical doll**) having a connected animatronic device (**Kikinis discloses an example of a handheld computer being able to make commands through a network to a mechanical doll 213 with animatronic movements that is connected by a host computer 251**).

Kikinis, however, fails to expressly disclose where the device sending the commands to the mechanical doll is a web enabled phone.

Theimer discloses a mobile phone that has the capability to access an Internet server to retrieve or transmit messages (**col 2 lines 50-60**).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kikinis system to utilize a web enabled phone to place commands through the Internet, as taught by Theimer. The motivation is a device that can control devices while being mobile, as suggested by Kikinis on col 6 lines 1-10.

Regarding **claim 2** Kikinis discloses where if said animatronic control signals correspond to a movement which said animatronic device is incapable of performing, said commands are altered to correspond to a movement which said animatronic device is capable of performing ("**alternate commands**", see **col 17 lines 29-55**).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patent is cited to show the state of the art with respect controlling devices through the Internet:


US Patent (6,564,128) to Baird et al

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Nguyen whose telephone number is 571-272-3089. The examiner can normally be reached on 9am-6pm ET, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 571-272-3088. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AVN
September 16, 2004



HASSAN KIZOU
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